

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Isabelle ATTALI et al

Title: METHOD OF LOCATING
MOBILE COMMUNICATING
OBJECTS WITHIN A
COMMUNICATIONS
NETWORK, COMPRISING
THE TRANSMISSION OF
LOCATION IDENTIFIERS BY
REPEATERS AND SERVER
UPDATES

Appl. No.: 10/565,208

Filing Date: 7/15/2004

Examiner: Unassigned

Art Unit: Unassigned

Conf. No.: 9515

**PETITION TO REVIVE APPLICATION AS UNAVOIDABLY ABANDONED UNDER
37 CFR § 1.137 (a) OR IN THE ALTERNATIVE AS UNINTENTIONALLY
ABANDONED UNDER 37 CFR § 1.137(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the Notice of Abandonment mailed on May 18, 2007, Applicants hereby request that the above identified application be revived as unavoidably abandoned or, in the alternative that the application be revived as unintentionally abandoned.

The above identified application has an international filing date of July 15, 2004 and claims priority to a French application filed on July 23, 2003. All inventors were alive at the time on both of those dates.

In December, 2004, inventor ISABELLE ATTALI, was lost in a tsunami in southeast Asia. Subsequently, a legal representative of inventor ISABELLE ATTALI was appointed under provisions of French law. See, Rely to Decision and Declaration of Denis Caromel and Attachments thereto.

On January 29, 2006, Applicants made a first filing in the United States Designated/Elected Office under 35 USC 371.

On May 3, 2006, the U.S. Patent and Trademark Office (USPTO) issued a Notification of Missing Requirements requesting a translation of the application, which had been transmitted by the International Bureau, and an oath or declaration of the inventors.

On June 29, 2006, Applicants filed the translation with a translator's declaration and the declaration and power of attorney of the inventors. Since inventor ISABELLE ATTALI was deceased, the inventor's legal representative, Denis Caromel, signed the declaration and power of attorney. Applicants also filed an assignment on that date and a request for corrected assignment recordation notice on September 28, 2006. On October 16, 2006 the USPTO mailed Applicants' attorneys a corrected notice of assignment recordation, which was logged into the undersigned's offices on October 24, 2006.

On October 30, 2006, the undersigned's secretary, Roseann Henderson, checked the status of the application on Private PAIR for docketing purposes. On that date, Ms. Henderson noted the status on Private PAIR for the above identified application as "Application undergoing preexamination processing." See, Declaration of Roseann Henderson.

The next correspondence Applicants' attorneys received from the USPTO concerning this application was a Notice of Abandonment dated May 18, 2007. Applicants' attorneys received no other correspondence from the USPTO prior to receiving the Notice of Abandonment.

After receipt of the Notice of Abandonment, Applicants' attorneys again checked Private PAIR and were surprised to see in the prosecution history a Decision dated August 9, 2006. As indicated above, Ms. Henderson saw no such Decision in the Transaction History on Private PAIR when she performed her status check on October 30, 2006, almost three months after the date of the Decision.

The August 9, 2006 Decision stated that Applicants' correspondence filed on June 29, 2006 was being treated as a request for status and that the declaration filed on June 29, 2006 did not comply with the requirements to state the identity, citizenship, residence, and mailing address of the legal representative of the deceased inventor. The decision also correctly stated that it appeared another of the inventors, Denis Caromel, was the deceased inventor's legal representative. The Decision, which was not received by Applicants' counsel, concluded that the request for status was dismissed without prejudice.

As noted above, all USPTO correspondence is logged into the undersigned's office. A review of the office's correspondence log indicates that the August 9, 2006 decision was not received at the undersigned's office. See, Declaration of Roseann Henderson.

DISCUSSION

Showing of Unavoidable Abandonment

Applicants received a Missing Parts Notice on May 3, 2006. On June 29, 2006, applicants timely submitted both an English-language translation and declaration executed by the inventors. Other than correspondence concerning assignment recordation, Applicants' counsel received no correspondence concerning this application until May 18, 2007, when Applicants'

counsel received a Notification of Abandonment. The application was unavoidably abandoned, because Applicants' counsel did not receive the August 9, 2006 correspondence and, therefore, could not respond to it. All USPTO correspondence is logged into the undersigned's office. A review of the office's correspondence log indicates that the August 9, 2006 decision was not received at the undersigned's office. See, Declaration of Roseann Henderson. Moreover, a status check of PAIR on October 30, 2006 did not alert Applicants to the August 9, 2006 decision, since it was apparently not included in the transaction history on PAIR at that time. See, Declaration of Roseann Henderson. In view of the fact that Applicants' counsel did not receive the August 9, 2006 correspondence from the USPTO and the fact that this correspondence was apparently not on Private PAIR for this application on October 30, 2006 during a routine status check, Applicants were unaware of the requirement of the August 9, 2006 USPTO correspondence, could not respond to avoid the abandonment.

Required Reply Attached

The August 9, 2006 Decision not received by Applicants' counsel required an additional declaration from the deceased inventor's legal representative. A Reply to Decision, including the required declaration, stating (1) the relationship of the legal representative to the inventor, (2) the facts that the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor and the (4) citizenship, residence, and mailing address of the inventor's legal representative is attached to this Petition.

Petition Fee Attached

In view of the circumstance that the Decision of August 9, 2006 was not received, Applicants were not aware of the requirement for another declaration and could not respond. As a result, the entire delay in filing the required reply from due date for the reply to the filing of this grantable petition was unavoidable and Applicants respectfully request that the application be revived under 37 CFR 1.137(a). The credit card form to charge the requisite petition fee under 37 CFR 1.17(l) is attached.

Alternatively, the application was unintentionally abandoned

In the event that Applicant's delay is found not to be unavoidable, Applicants state that, in view of the above facts, the entire delay in filing the required reply from due date for the reply to the filing of this grantable petition was unintentional and respectfully request that the application be revived under 37 CFR 1.137(b). Under these circumstances, the Commissioner is authorized to charge the remaining fee for reviving an unintentionally abandoned application under 37 CFR 1.17(m).

The Commissioner is authorized to charge any fee associated with this request, or credit any overpayment, to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 17, 2007

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5416
Facsimile: (202) 672-5399

By Brian J. McNamara

Brian J. McNamara
Attorney for Applicant
Registration No. 32,789

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DECLARATION OF ROSEANN HENDERSON

I, Roseann Henderson, declare as follows:

I am a citizen of the United States, residing at 3968 Woodhue Pl., Alexandria VA 22309.

For over 20years I have been employed at Foley & Lardner, LLP as a patent secretary.

One my assigned applications is the above identified application.

In my position, I am familiar with the Foley and Lardner's office procedures concerning handling of incoming mail from the United States Patent and Trademark Office (USPTO).

All incoming mail to Foley and Lardner from the USPTO is logged in as it is received. USPTO correspondence is then routed to Foley & Lardner's docketing department for docketing of a responsive communication before it is sent to the responsible patent attorney or agent.

Exhibit A to this declaration is a print out of the activity on the above identified application from Foley & Lardner's docket system.

As indicated in Exhibit A, a Notice of Missing Parts was logged into the docket system for May 3, 2006. The docket sheet shows that a Response ("c/t courier, exec Dec/POA and Assignment response to Missing Requirements/1st extension) was filed on June 29, 2006.

No other correspondence concerning the Response to the Missing Parts was received.

In particular, I did not receive any correspondence from the USPTO dated August 9, 2006 concerning a "Decision."

I have checked our office's incoming correspondence log and determined that no such correspondence concerning a Decision was logged as received at the offices of Foley & Lardner.


I have reviewed the records maintained by our docketing department and determined that no such correspondence concerning a Decision was received by our docketing department.

On October 30, 2006, with proper authorization, I accessed Private PAIR to check the status of the application. At that time I noted on our docket "Per PAIR: Application undergoing preexamination processing." At that time, I saw no indication of the August 9, 2006 Decision on PAIR.

I FURTHER DECLARE THAT all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code.

7-17-07
Date


Roseann Henderson

PATENT INFORMATION SHEET	
Client/Matter No: 017346-0190	Client Ref: INRIA-CAS 71
Client: Cabinet Netter	Client Contact Email:
Country: United States of America	
Office: Washington, D.C.	
Status: Pending	Sub Status:
Billing/Working Attorney(s): Walter K. Robinson; Brian J. McNamara	
Inventor(s): Attali Isabelle; Caromel Denis; Huet Fabrice	
Title: METHOD OF LOCATING MOBILE COMMUNICATING OBJECTS WITHIN A COMMUNICATIONS NETWORK, COMPRISING THE TRANSMISSION OF LOCATION IDENTIFIERS BY REPEATERS AND SERVER UPDATES	
Assignee(s): Inria Institut National De Recherche En Informatique Et En Automatique; Unsa Universite De Nice Sophia Antipolis	
Application No: 10/565208	Filing Date: 7/15/2004
Publication No:	Publication Date:
Patent No:	Grant Date:
Notes: 03/21/06 - Fax rcv from client w/instr to send decl/poa & assignment. 6/26/06 clt courier, exec Dec/POA and Assignment 7/13/07 clt fax- body of declaration, duly exec by Denis Caromel, we slightly amended the text in the 5th and 6th paragraphs 7/13/07 clt fax- final version with Exhibit A and its Engl transl.	

Parent Application(s)

Docket Number		Priority Type	Country	Application No	Date
—	INV-64786/FRX	Paris Convention	France	0308990	7/23/2003
...	INV-64786/PCTX	PCT National Phase	PCT	PCT/FR2004/001853	7/15/2004

Action(s) and Date(s)

Action	Rem Date	Due Date	Done Date	Notes
Application Date			7/15/2004	
ADS Filed			1/20/2006	
National Date			1/20/2006	
IDS Filed			1/20/2006	
File National Stage U.S. Appln 30 Month Deadline		1/23/2006	1/20/2006	*
appln, ids, filed 1.20.06				
Information Disclosure Statement Due		4/20/2006	1/20/2006	*
ids filed 1.20.06				
Notice of Missing Requirement DTD			5/3/2006	
Response to Missing Parts Received at PTO			6/29/2006	
Notice of Recordation of Assignment Dtd			6/29/2006	
Notice of Recordation of Assignment Dtd			6/29/2006	
Translation			6/29/2006	
Power of Attorney Filed			6/29/2006	
Assignment Filed			6/29/2006	*
fax				
Response to Missing Requirements Due		7/3/2006	6/29/2006	*

6/26/06 clt courier, exec Dec/POA and Assignment				
Response to Missing Requirements/1st extension		8/3/2006	6/29/2006	
Response to Missing Requirements/2nd Extension Due		9/3/2006	6/29/2006	
Request for Corrected Assignment Filed			9/28/2006	
Response to Missing Requirements/3rd Extension Due		10/3/2006	6/29/2006	
Response to Missing Parts Filed - 4 month status check		10/29/2006	10/30/2006	*
10-30-06 Dialog: Per PAIR: Application undergoing preexamination processing.				
Response to Missing Requirements/4th Extension Due		11/3/2006	6/29/2006	
Response to Missing Requirements/5th Extension - FINAL		12/3/2006	6/29/2006	
Notice of Abandonment Dtd			5/18/2007	
Notice of Abandonment Received		7/15/2007	7/17/2007	*
05/23/2007 10:31:50 AM EST - Roseann E. Henderson Instruction: Extend to Next Date				
Petition to Revive Due - FINAL		7/18/2007		
18-Month Status Check		7/20/2007		
Notice of Abandonment / 1-Yr Status Check		5/18/2008		
Expiration Date			7/15/2024	

Foley & Lardner LLP IP Data Version 2.2.65, 1.0.40

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REPLY TO DECISION

Responsive to the Notice to File Missing Requirements Under 37 U.S.C. 371, dated May 3, 2006, Applicants filed a declaration and power of attorney on June 29, 2006. As explained in the attached Petition To Revive As Unavoidably Abandoned Under 37 CFR 1.137(a) or In The Alternative as Unintentionally Abandoned Under 37 CFR 1.137(b), unknown to Applicants, on August 9, 2006, the U.S. Patent and Trademark Office issued a paper entitled "Decision." That Decision treated Applicant's June 29, 2006 submission as a Request For Status under 37 CFR 1.42 and dismissed it without prejudice. The Decision noted that the declaration submitted on June 29, 2006 did not specify certain facts concerning the deceased inventor's legal representative.

In conjunction with the attached Petition to Revive, and responsive the Decision of August 9, 2006, which was not received by Applicants' counsel, attached is the required declaration of the deceased inventor's legal representative and a French ruling declaring Denis Caromel the deceased inventor's sole heir. As required, the declaration, states (1) the

relationship of the legal representative to the inventor, (2) the facts that the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor and the (4) citizenship, residence, and mailing address of the inventor's legal representative (post office address).

Favorable action on the attached petition to revive and acceptance of the declaration of the inventor's legal representative is respectfully requested.

Date: July 17, 2007

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Respectfully submitted,



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